

**REMARKS/ARGUMENTS**

New claim 24 finds basis in presently pending claims 19-21 and the specification as originally filed. By way of example, new claim 24 recites a locking mechanism including a male portion for mating with a blade female portion, and a pivot pin for rotation of the locking mechanism within the housing.

Applicants wish to thank the Examiner for the telephonic Interview of May 25, 2006 in which the rejections of record were discussed as well as suggested claim amendments. The Examiner's Interview Summary states: "It is agreed claim 1 reciting the limitation of claim 5 and the limitation of the protrusion being located near a base portion of the blade would be favorably considered." The following claim amendments have been made based on the Interview with the Examiner and the Examiner's Office Action of March 3, 2006. After reviewing the changes agreed upon during the Interview, the Examiner felt a further search and examination would be required (as stated in Examiner's Advisory Opinion of July 24, 2006) before the amendments could be entered. Applicants wish to thank Examiner Payer for reviewing the case with us and for suggesting we present the arguments below to her in a response accompanying an RCE.

Claim 1 was amended to include the limitation of previous Claim 5 and the limitation of the protrusion near a base portion of the blade. Claim 6 was amended to correct claim dependency due to the cancellation of Claim 5. Claim 8 was amended to correct the antecedent relationship of elements made necessary by the amendments to Claim 1. Claim 11 was amended to include the limitation of previous Claim 13 and the limitation of the protrusion extending inward from the housing and located near a base portion of the blade. Claim 16 has been amended to clarify language related to a protrusion of the blade has been changed to the tang which is how the element is described in paragraph 31 of the specification. Claims 18, 19 and 22 have been amended to include the limitation of the protrusion being located near a base portion of the blade.

Claims 5 and 13 have been canceled without prejudice for re-presentation and pursuit in a continuing application. Claims 1, 4, 6-8, 11-12, 14-22, and 24 are pending. The current claims have been drafted to be better tailored to the desired subject matter and for reasons related to currently contemplated commercial embodiments of the invention. No acquiescence is made to any position regarding patentability as set forth in the Office Action mailed March 3, 2006. Applicants reserve the right to pursue the subject matter no longer within the scope of the amended claims in a continuing application without prejudice.

No new matter has been introduced with regards to the claim amendments, and Applicants respectfully request allowance of the now pending claims.

**Previous Issues under 35 U.S.C. §112**

Applicants wish to thank the Examiner for entering the previous amendments and removing the rejections based on the §112 issues.

**Issue under 35 U.S.C. §102(b)**

Claims 1, 4-8 and 11-22 were rejected under 35 USC § 102(b) as allegedly anticipated by Cunningham (U.S. Patent No. 4,811,486).

Applicants have carefully reviewed the statement of the instant rejection and respectfully traverse, because they believe no case of anticipation is present. Simply put, Cunningham does not teach all the requirements of the claims.

In response to our previous claim amendments incorporating the limitation that the locking mechanism is "located near a base portion of the blade" in all claims, Examiner argued, for the first time, that the Cunningham reference also includes that same limitation.

The Examiner argues that Cunningham teaches that the locking mechanism 13 is "located near the base portion of the blade". However, what the Examiner believes to be the locking mechanism of Cunningham is not entirely clear. The

Examiner presented a portion of the locking mechanism disclosed in Cunningham as the "locking mechanism 13". In contrast, the specification and figures of Cunningham describe feature 13 as a **locking pin**, not the entire locking mechanism 13.

If the locking pin (13) is what the Examiner believes is the locking mechanism disclosed in Cunningham, there are numerous differences between the present invention and Cunningham. The locking pin of Cunningham is described in column 2, lines 1-13:

For the purpose of locking knife blade 2 in the extended position, locking pin 13 is provided. **Locking pin 13 comprises locking surface 14 at one end thereof and locking notch 13a at the other end thereof.** Locking slot 15 is generally formed in the lower portion of locking pin 13. In addition, aperture 16 is formed in locking pin 13. For the purpose of supporting one end of locking pin 13, base element 1 further comprises locking base 17 and which is provided with locking slot 18 and recess 17a both formed therein. In order to interconnect locking pin 13 and locking base 17, leaf spring 19 is provided and is adapted to cooperate with locking slots 15 and 18. Also apertures 10 and 21 are formed in locking base 17.

The Cunningham reference comprises a locking pin (13) which extends the length of the handle (3,4). This is an important feature because the dual purpose locking mechanism used for both locking the blade in the open and closed positions has a pivot point (6) found in the approximate middle portion of the handle (3,4); therefore, in order for the locking mechanism to function in the Cunningham reference, the locking pin must extend beyond the base portion of the blade along the length of the handle. In contrast, the present invention does not have a similar feature to the elongated locking pin (13) which extends away from the base portion, and therefore Cunningham does not anticipate the present invention.

Even if the locking pin (13) is construed as just a portion of the entire locking mechanism (13), the Cunningham reference still fails to anticipate the present

invention. According to the Examiner's rejection above, the locking mechanism of Cunningham includes:

a male portion (14) for mating with a blade female portion (2a); a protrusion (19) extending from the handle (3,4), for mating with a recess (15) of the locking mechanism (13) a tab (i.e. the portion that is visible through notches 3a, 4a when the knife is assembled as shown in Figs. 1 and 2); and a protrusion of a blade (i.e. the portion of the blade that is protruded out of the handle as shown in Fig.4) configured to displace the locking mechanism (13) as claimed.

Although both the male portion (14) and female portion (2a) are located near the base portion of the blade, the rest of the locking mechanism features either extend the length of the handle (3,4) (e.g., the locking pin (13)), or are found away from the base portion of the blade closer to the opposite end of the handle (e.g., protrusion (19) and recess (15)).

Figure 4 cited by the Examiner specifically shows essential features of the locking mechanism of the Cunningham reference found at the far end of the handle at the furthest point from the "base portion of the blade". Protrusion (19), and recess (15) are essential features of the locking mechanism in that they provide the tension. These components are located at the far end of the handle, as are the tab and associated notches 3a and 4a.

Regardless of what features constitute the locking mechanism in Cunningham, Cunningham does not anticipate the present invention. Whether addressing the locking pin 13 as described by Cunningham or the locking mechanism 13 as stated by the Examiner, these limitations are not located near a base portion of the blade. The claims, specification and figures (See Figures 9-14) of the application demonstrate the locking mechanism is located in its entirety near the base portion of the blade. The claimed locking mechanism of the present invention does not comprise an elongated locking pin extended along the length of the handle as featured in Cunningham. The claimed locking mechanism is used solely for maintaining the blade in a closed position.

Furthermore, in the Examiner's recent advisory opinion, the Examiner alleged that at least claim 11 as previously reviewed would still read on Cunningham because element 33 could be construed as the claimed protrusion located near a base portion of the blade. For business considerations, and without acquiescence that Cunningham anticipates the claim 11 as the Examiner alleges, claim 11 has been further amended to require the protrusion to extend inward from the housing as supported by the original claims and specification at least at paragraph [0005], [0030] and shown in FIGS. 8A-8G. Protrusion (sliding knob) 33 of Cunningham only protrudes outwardly from the handle so that the protrusion 33 (sliding knob) can be directly manipulated by the user.

For the reasons stated above and stated previously, Cunningham does not disclose all the elements of the claimed invention as required to support an allegation of anticipation.

Accordingly, Applicants respectfully traverse the instant rejection because Cunningham fails to disclose or suggest the same locking mechanism of the present invention, specifically in regards to having a locking mechanism located near a base portion of the blade.

For business considerations, and without acquiescence that Cunningham anticipates the claims as the Examiner alleges, the claims of the present invention have been amended. Based on an agreement with the Examiner during the interview that Cunningham does not anticipate a claim including the locking and protrusion element associated with the locking mechanism near the base of the blade, all of the pending claims have this aspect. In light of the present amendments, the Cunningham 35 U.S.C. § 102(b) rejection is now moot, and this rejection may be properly withdrawn.

**Issue under 35 U.S.C. §102(e)**

Claims 1-4, 9-12 and 14-17 were once again rejected under 35 U.S.C. § 102(e) as allegedly unpatentable over Frazer (U.S. Patent Publication No. 2003/0070299, now U.S. Patent No. 6,941,661). Due to the fact that Claims 2, 3, 9 and 10 were

previously canceled, it is our understanding that the Examiner is rejecting pending Claims 1, 4, 11, 12, and 14-17 in the present rejection. Without acquiescence to the allegation that these claims are unpatentable over Frazer, for business considerations, Claims 1, 4, 11, 12, and 14-17 have been amended to further incorporate an element from a previously allowable claim in relation to Frazer. Claim 1 has been amended to include the allowable element of Claim 5, Claim 4 still depends from Claim 1 and would now include the allowable element, as would Claims 6-8. Claim 11 has been rewritten to include the allowable element of Claim 13, Claim 12 still depends from Claim 11 and would now include the allowable element, as would Claims 14-17. Claims 18-22 were previously allowable in regards to Frazer and have not been amended. In light of the present amendments, the Frazer 35 U.S.C. § 102(e) rejection is now moot, and this rejection may be properly withdrawn.

Appl. No. 10/777,465  
Amdt. dated September 5, 2006  
RCE Response in Reply to Final Office Action of March 3,  
2006

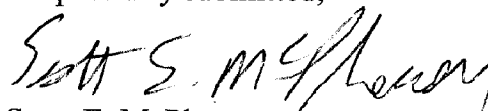
PATENT

**CONCLUSION**

In light of the above amendments and arguments, Applicants respectfully submit that claims are in condition for allowance and respectfully urge early indication to this effect.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



Scott E. McPherson  
Reg. No. 53,307

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 858-350-6100  
Fax: 415-576-0300  
Attachments  
SEM:ps  
60852675 v1